

D.N.: CV-14-6049044-S

NUCAP INDUSTRIES, INC. <u>et al.</u> ,)	SUPERIOR COURT
)	
Plaintiffs,)	JUDICIAL DISTRICT
)	OF NEW HAVEN
V.)	AT NEW HAVEN
)	
PREFERRED TOOL AND DIE, INC., et al.,)	
)	
Defendants.)	SEPTEMBER 17, 2014

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS OR TRANSFER

Pursuant to P.B. 1998 §§ 10-31(a) and 11-10(2), Defendants Preferred Tool and Die, Inc. and Preferred Automotive Components, a division of Preferred Tool and Die (“Defendants”), hereby submit this memorandum in support of their motion to dismiss, or, in the alternative, to transfer this action to the Judicial District of Waterbury at Waterbury (the “Motion”).

FACTS

Plaintiffs Nucap Industries, Inc. (“Nucap”) and Nucap US, Inc. (“Nucap US”) (collectively “Plaintiffs”) brought this action against Defendants and Defendant Robert A. Bosco, Jr. (“Bosco”) by way of writ, summons and complaint dated July 21, 2014. Plaintiffs’ complaint (the “Complaint”) consists of two counts sounding in violation of the Connecticut Uniform Trade Secrets Act (as to all defendants) and breach of a confidentiality and intellectual property agreement (as to Bosco only). See generally Complaint.

It is alleged that Nucap is an Ontario, Canada corporation and that Nucap US is a Delaware corporation with a principal place of business in Wolcott. Id. at ¶¶ 7 and 8.

Defendants are alleged to have a principal place of business in Shelton. Id. at ¶ 10. Finally, Bosco is alleged to be a resident of Wolcott. Id. at ¶ 12.

Plaintiffs aver that venue is proper in the Judicial District of New Haven at New Haven “because Bosco is a resident of this Judicial District and a substantial part of the transactions and events giving rise to this action took place in this Judicial District”. Id. at ¶ 15.¹

ARGUMENT

Connecticut’s rules governing venue in civil actions commenced by corporations such as Plaintiffs are governed by Conn. Gen. Stat. § 51-345(c), which provides as follows:

(c) Actions by a corporation. In all actions by a corporation, except actions made returnable under subsection (b), (d) or (g) of this section, civil process shall be made returnable as follows:

(1) If the plaintiff is either a domestic corporation or a United States corporation and the defendant is a resident, either (A) to the judicial district where the plaintiff has an office or place of business or (B) to the judicial district where the defendant resides.

(2) If the plaintiff is either a domestic corporation or a United States corporation and the defendant is a corporation, domestic or foreign, to the judicial district where (A) the plaintiff has an office or place of business, (B) the injury occurred, (C) the transaction occurred, or (D) the property is located or lawfully attached.

(3) If the plaintiff is a foreign corporation and the defendant is a resident, to the judicial district where the defendant resides.

(4) If the plaintiff is a foreign corporation and the defendant is a corporation, domestic or foreign, to the judicial district where (A) the injury occurred, (B) the transaction occurred, or (C) the property is located or lawfully attached.

¹ The only locations expressly identified in the balance of the Complaint are Toronto, Canada and Jacksonville, Florida, so it may be reasonably inferred that Plaintiffs intended to allege that the balance of the actions took place in Wolcott.

Here, the plaintiffs consist of a Canadian corporation and a Delaware corporation and the defendants consist of a Connecticut corporation, one of its divisions, and a Connecticut resident. It may therefore be argued that any one of the four venue iterations of Conn. Gen. Stat. § 51-345(c) may apply to this case, but the most common element is that one of Plaintiffs and Bosco are both allegedly connected to Wolcott. In fact, there is not a single allegation in the Complaint of an act having taken place in the Judicial District of New Haven.

Conn. Gen. Stat. § 51-344(12) makes plain that Wolcott is located in the Judicial District of Waterbury. Unlike some other towns, Wolcott is not allotted an alternative Judicial District as a venue for civil actions. It follows that this action should therefore be dismissed for improper venue.

As an alternative to dismissal of the action, the Court should transfer it pursuant to Conn. Gen. Stat. § 51-347b and P.B. 1998 § 12-1 to the Judicial District of Waterbury at Waterbury. See generally Fort Trumbull Conservancy, LLC v. New London, 282 Conn. 791, 820 (2007).

CONCLUSION

For all of the foregoing reasons, the Complaint should be dismissed, or, in the alternative, transferred to the Judicial District of Waterbury at Waterbury.

THE DEFENDANTS
PREFERRED TOOL AND DIE, INC. and
PREFERRED AUTOMOTIVE
COMPONENTS
BY THEIR ATTORNEY

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was sent via electronic delivery, pursuant to express written consent, on this 17th day of September, 2014, to all counsel and pro se parties of record, including:

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